

Memorandum

To: CON 12-15 Council Bluffs Coal Gas file
From: Mick Leat
Date: 10/10/03
Re: October 8, 2003 meeting minutes



Introductions

Wornson Going to discuss assessment and remediation needed and hope to come to an agreement on the next phase of activity. A risk assessment will be needed to scope final remedial actions. Department's position is that Aquila has some liability on this site as owner of properties that house the MGP.

Adams Asked when MGP operations began and Wornson's and Schilmoeller response was 1870's according to records.

Wornson Discussed different approaches to dealing with the site- LRP, AO, CO following either CERCLA or state rules. Asked for clarification from Aquila on current MGP property ownership.

Schilmoeller/Clement -Looking at the 62' Sanborn in handout, all of Block 12 south of the northernmost RR shown on map (lots 3-7 and 11-14), is owned by Aquila and leased to KC Peterson Construction. In Block 11, same RR is the northern boundary and all of the block S of that is currently owned by Aquila except lot 11 and the 192 ROW owned by IDOT. Lot 11 is referred to as the Meyer or Fishler property. MGP structures are located on Aquila property, Meyer property, and IDOT property.

Buchanan Handed out plat maps, depicting property ownership.

Wornson Introduced Leat in discussion about site assessment needs and potential remedial actions.

Leat Went through handouts with discussion. Started with source materials identified at the site by Department and additional likely sources as yet unidentified and stated that the Department's position was that source materials would be required to be removed from the site, regardless of program entered, if technically feasible. For instance, it may be infeasible to remove the contents of gas holder #4 because of highway construction issues and #3 may also be due to the buildings constructed over them. Discussed groundwater and data gaps. Some discussion followed.

Boyle Asked about groundwater gradients on site. Leat referred her to the figure in the handout depicting flow directions.

Leat Noted that contamination recently encountered by Pottawattamie County Development Corp. was hydraulically upgradient from MGP, based upon this map. However, because DNAPL

typically flows with gravity and not necessarily with gw gradient, it is likely that the detected contamination is from the MGP. Additional information will be needed to confirm this or identify another source.

- Anderson Noted that the purpose of the Phase II investigation was to determine if contamination was present on the properties assessed; the purpose of this investigation was not to delineate MGP contamination.
- Buchanan Described Development Corporation's South Main Urban Renewal Area and handed out maps showing it.
- Gross Explained that City recently purchased property west of 192, but the City has no plans for redevelopment of the properties west of 192 near the MGP property but added that something was needed in that area to revitalize it. Around 14th, 15th, and 16th Avenues on west side of 192, the city is in the process of developing over 100 single family homes; this is south of MGP a couple blocks. In response to an inquiry of Brownfield grant application, they have applied for an EPA grant twice and were not awarded one.
- Clement Asked if the Department would consider nonresidential cleanup standards for the proposed residential area east of the MGP. Leat replied that cleanup will be tied into actual land use and the presence of deep contamination on some property should not necessarily preclude residential development. Gross confirmed that the plans shown on the handout are conceptual and subject to change.
- Jankowski Stated that as soon as the City can complete the sewer work on 6th and 7th Streets, they will have completed storm sewer/sanitary sewer separations required by law.
- Wornson DNR wants assessment to move forward and will be looking to Aquila to assess their properties and for IDOT to assess their site.
- LaBarge Aquila's viewpoint is that accepting responsibility will be a defacto acceptance to do all additional work and is looking at other PRPs to help fund needed work.
- Bruckner OPPD's position is that they have not connection to site ownership or plant operation and therefore has no successor liabilities.
- Adams TXU's perspective is that they will accept responsibilities in line with the relatively limited time when their successor company operated the plant. They will consider some financial participation but need to know more about the site.
- Schilmoeller Aquila's position is contrary to OPPD's and at issue is the largest chunk of liability due to operator liabilities.
- Bruckner Mentioned that Western Iowa Power Company sold assets to Iowa Power in 1946 and that someone reported that the plant operated for peaking purposes until 1950.
- Schilmoeller Mentioned that their may be other sources of the contamination noted east of 192 by the County Development Corporation.

Break

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Discussion followed with respect to OPPD's potential liability as a successor company to Citizens Gas and Electric Company and Nebraska Power Company. OPPD rep stated that CGE closed the plant in 1932 and CGE merged with NPC in 1937. He stated that Blue Chip requires that in order to demonstrate liability, it will need to be able to document that a release occurred prior to 1937. In 1946 NPC liquidated its interest in Iowa properties by stock sale to Western Iowa Power (WIP), which eventually became Iowa Power and Light as a result of a Nebraska law that created the state power authority.

Aquila's understanding that it was a merger between OPPD and NPC, and OPPD's position was that records do not show that it was a merger. Aquila believes that parent-subsidary derived liability may exist between CGE/NPC/OPPD and that liabilities may have also been passed by the asset transfer of CGE to Council Bluffs Gas Company. OPPD indicated that transactional documents would clarify the nature of these transactions.

OPPD stated that the NPC to WIP was a stock transfer and liabilities and assets go along with this stock transfer. Therefore, OPPD's position is that owner liabilities pass along to the successor of Iowa Power and Light, which is MidAmerican Energy Company.

TXU restated that they recognize some liabilities are a prepared to pay their equitable portion for assessment and cleanup.

IDOT stated that they recognize some responsibility as a site owner but do not have enough information to determine degree of contribution.

It was decided that MEC needs to be involved in these negotiations as a PRP. It was decided that Dave Wornson would draft a letter to MEC asking for their responses to the reported claims.